

REMARKS

Claims 1-44 are pending in this application. Claims 9-11, 13, 25 and 35 were rejected under 35 U.S.C. §102 as being allegedly anticipated by U.S. Patent No. 6,138,157 ("Welter"). Claims 1-3, 5-8, 14, 15, 17-23, 26-29, 31-34, 36 and 38-44 were rejected under 35 U.S.C. §103(a) as being allegedly obvious over Welter in view of what was characterized as "Applicant's Admitted Prior Art." Claims 4, 12, 16, 24, 30 and 37 were rejected under 35 U.S.C. §103(a) as being allegedly obvious over Welter in view of U.S. Patent No. 6,327,622 ("Jindal"). Fig. 1 was objected to. The foregoing objections and rejections are respectfully traversed, in part, for reasons including those set forth below.

Drawing Objection

Fig. 1 has been amended as suggested by the Examiner and a replacement sheet is attached. However, applicant's attorney notes that "[a]ccording to a specific implementation, the Server Health Monitoring Procedure may be implemented by a health monitoring device or agent such as agent 106a of FIGURE 1." (Specification at page 9, lines 14-16.) Moreover, the "brief description" indicates that Fig. 1 "shows a block diagram of a data network which may be used for implementing the techniques of the present invention." Therefore, while the load-balanced server system depicted in Fig. 1 has been described in the background section as "conventional," it is clear that it nonetheless may be modified for implementing the techniques of the present invention.

Claim Rejections

Although the Examiner and Applicant's attorney were not previously in complete agreement, there are several areas of agreement. For example, the Examiner has admitted that Welter does not teach determining the health status of a selected network device (Office Action at p. 4, ¶ 2). Applicant's attorney also agrees that Welter does not discuss content being provided to a virtual server by a plurality of servers in a server farm.

Welter's "tester," as understood, is implemented on a testing computer to obtain and test web pages via the Internet. (See, e.g., Fig. 1.) Welter simply does not address the issue of multiple servers in a server farm, any of which could be providing the web pages. Therefore, Welter does not provide a method for testing (or even for identifying)

a specific server within a server farm that may be providing content to the web site being tested.

Applicant's attorney respectfully disagrees with the latter of the following statements in the Office Action: "It is implicit that in order to initiate communication with a web site, some form of identification must be used to access the site. *It would have been obvious to a person of ordinary skill in the art at the time the invention was made to use this same identification to identify a specific network device.*" It is respectfully submitted that the information needed to access a web site is not sufficient for identifying a specific server in a server farm used to provide content for the web site.

In order to more clearly distinguish the teachings of Welter, independent claim 1 has been amended to recite "transmitting a resource request to the a selected network device server among a plurality of servers in a server farm" Corresponding amendments have been made to all independent claims and to dependent claims, as needed for proper antecedent bases.

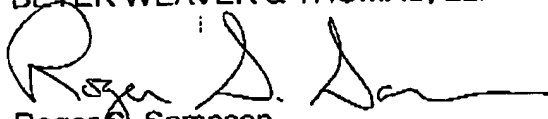
The Office Action does not indicate why one of skill in the art would have been motivated to combine what was characterized as "Applicant's Admitted Prior Art" with the teachings of Welter. In addition, the Office Action also fails to make clear exactly what aspect(s) of the so-called admitted prior art would be combined with the teachings of Welter.

Moreover, claims 9-11, 13, 25 and 35 were rejected under 35 U.S.C. §102 as being allegedly anticipated by U.S. Patent No. 6,138,157 ("Welter"). Because the Examiner has admitted that Welter does not teach determining the health status of a selected network device (Office Action at p. 4, ¶ 2), all of the recited claim elements are admittedly not disclosed in Welter. Therefore, the claim rejections under 35 U.S.C. §102 should be withdrawn.

Accordingly, Applicant's attorney respectfully submits that the foregoing amendments and argument overcome the rejections set forth in the Office Action and that all pending claims are allowable over the art relied upon. Therefore, Applicant's attorney respectfully requests a Notice of Allowance for this application from the Examiner. ***Applicant's attorney requests that the Examiner contact him at (510) 495 3201 to schedule a telephonic interview if there are any remaining issues that need to be resolved.***

Applicant's attorney hereby petitions for any extension of time that may be required to maintain the pendency of this case, and any required fee for such extension or any further fee required in connection with the filing of this Amendment is to be charged to Deposit Account No. 500388 (Order No. CISC186).

Respectfully submitted,
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